

**IN THE JUVENILE COURT OF DEKALB COUNTY  
STATE OF GEORGIA**

IN THE INTEREST OF

FM

DOB:

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CASE NUMBER:

JUDGE:

**MOTION TO SUPPRESS ILLEGALLY OBTAINED EVIDENCE**

COMES NOW, FM, by and through undersigned counsel, and respectfully moves this Honorable Court prior to adjudication to suppress illegally obtained evidence in violation of the Constitution and laws of the United States and State of Georgia and applicable case law, including but not limited to the Fourth, and Fourteenth Amendments to the Constitution of the United States, Articles I, Section 1, Paragraphs I, and XIII of the Constitution of the State of Georgia (1983), *In re: Gault*, 385 U.S. 965 (1966), *New Jersey v T. L. O.* 469 US 325 (1985), *State v. Young*, 234 Ga. 488 (1975) and progeny; and in support states as follows,

1.

FM is charged with violating O.C.G.A. § 16-11-127.1 by carrying a weapon on school property. The State, by and through the Assistant District Attorney, may attempt to introduce into evidence items seized during an improper and unjustified search of his bag.

2.

On February 4, 2020, F's bag was searched by a school employee at the behest of a school resource officer without F's consent or knowledge. In searching the bag, the pair of individuals found items inside that prompted a more thorough search conducted by Dean of Students A in the presence of three school resource officers. The officers and the principal subsequently searched F's bag and seized a firearm, a pill container with green leafy substance inside and four white pills.

3.

Both the initial search and the subsequent search were conducted without a search warrant.

4.

Absent the information illegally obtained through the search conducted by the school employee acting as an agent of the school resource officer, the subsequent search conducted by the school resource officers and school administrator lacked probable cause to further search F's bag. Thus, items obtained in that search should be suppressed. *State v. K.L.M.*, 278 Ga. App. 219 (2006).

5.

Even if probable cause existed for the subsequent search, no exception to the warrant requirement was present; the bag presented no issue of exigency in the possession of law enforcement, F did not consent to the search, and after viewing the video tape the identity of the bag's owner was not in doubt.

6.

Absent an exception, the officer is only allowed to seize the bag and apply for a warrant, not search the bag, even when probable cause exists. *United States v. Chadwick*, 433 U.S. 1, 13 (1977).

7.

Any search involving law enforcement agents implicates the Fourth Amendment and requires the exclusionary rule's application. *State v. Young*, 234 Ga. 488 (1975).

8.

The items found in F's backpack were the fruit of the illegal warrantless search lacking in probable cause and must be suppressed. *Walker v. State*, 299 Ga. App. 788 (2009).

WHEREFORE, FM prays that the Court issue an Order for a pre-trial hearing by the court to requests the suppression of any article, thing, or testimony obtained as a result of the illegal search of F and for such other relief as the Court may deem proper.

Respectfully Submitted,

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